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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,270	03/04/2004	Frank Oldorff	03100142US	4233
	7590 09/23/200 & BERNSTEIN, P.L.0		EXAMINER	
1950 ROLAND	CLARKE PLACE		KILIMAN, LESZEK B	
RESTON, VA 20191			ART UNIT	PAPER NUMBER
			1794	
			NOTIFICATION DATE	DELIVERY MODE
			09/23/2008	ELECTRONIC

## Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com pto@gbpatent.com

	Application No.	Applicant(s)
	10/792,270	OLDORFF, FRANK
Office Action Summary	Examiner	Art Unit
	leszek b. kiliman	1794
The MAILING DATE of this communication ap Period for Reply	pears on the cover sheet with the c	correspondence address
A SHORTENED STATUTORY PERIOD FOR REPI WHICHEVER IS LONGER, FROM THE MAILING I  - Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statu Any reply received by the Office later than three months after the maili earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICATION  .136(a). In no event, however, may a reply be tired will apply and will expire SIX (6) MONTHS from te, cause the application to become ABANDONE	N. mely filed the mailing date of this communication. ED (35 U.S.C. § 133).
Status		
Responsive to communication(s) filed on <u>Jun</u> This action is <b>FINAL</b> . 2b) ☐ Th     Since this application is in condition for allowed closed in accordance with the practice under	is action is non-final. ance except for formal matters, pro	
Disposition of Claims		
4)  Claim(s) 1-14 and 26-28 is/are pending in the 4a) Of the above claim(s) is/are withdra 5)  Claim(s) is/are allowed.  6)  Claim(s) 1-14 and 26-28 is/are rejected.  7)  Claim(s) is/are objected to.  8)  Claim(s) are subject to restriction and/	awn from consideration.	
<ul> <li>9) The specification is objected to by the Examin 10) The drawing(s) filed on is/are: a) ac Applicant may not request that any objection to the Replacement drawing sheet(s) including the corre</li> <li>11) The oath or declaration is objected to by the Examin 11.</li> </ul>	ccepted or b) objected to by the edrawing(s) be held in abeyance. Section is required if the drawing(s) is ob	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).
Priority under 35 U.S.C. § 119		
12) Acknowledgment is made of a claim for foreig a) All b) Some * c) None of:  1. Certified copies of the priority documer 2. Certified copies of the priority documer 3. Copies of the certified copies of the pri application from the International Burea * See the attached detailed Office action for a list	nts have been received. nts have been received in Applicat ority documents have been receive au (PCT Rule 17.2(a)).	ion No ed in this National Stage
Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO/SB/08)  Paper No(s)/Mail Date 6-16-08,11-15-06,10-14-05,5-28-04.	4) Interview Summary Paper No(s)/Mail D 5) Notice of Informal F 6) Other:	ate



Application No.

Application/Control Number: 10/792,270

Art Unit: 1794

## **DETAILED ACTION**

Page 2

## **Double Patenting**

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPO 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-14 and 26-28 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 10/932337. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one having ordinary skill in the art to rearrange parts of the invention.

This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Application/Control Number: 10/792,270 Page 3

Art Unit: 1794

## Claim Rejections - 35 USC § 103

- 3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 4. Claims 1-14 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pervan'229.

Please note that the rejections in the previous office action were inadvertently labeled as 102 or in alternative 103. All comments and references to the Pervan'229 are still valid.

Also, the double patenting rejections have been reinstated at this time. The arguments presented by applicants have not been persuasive. The examiner submits that it would have been obvious to print a decorative matter on the coated core or include the printed matter in the layer that is applied to the core or coated core and then applied a wear layer and press all layers together. Applicants have argued that teachings of embossing in the prior art would not suggest printing decoration on article. The examiner respectfully disagree. Person of ordinary skill in the art would have known that embossing is not the only way to place a decorative scheme on the article. Also, covering the whole board including sides with melamine and adding corundum or antibacterial and antistatic additives into or onto layer is routine in the art. In addition, fillers

mentioned by applicants are also well known and routinely added during the process of coating to a different layers. Absent of some indication of unexpected results it is obvious to include such additives in the process to optimize properties of the final article.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to leszek b. kiliman whose telephone number is 571-272-1509. The examiner can normally be reached on M-T, 6.30-5.00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, milton cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lk /leszek b kiliman/ Primary Examiner, Art Unit 1794 Application/Control Number: 10/792,270

Page 5

Art Unit: 1794